

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

RADIANCE, INC.,

Plaintiff,

v.

TWIN CITY FIRE INSURANCE COMPANY,

Defendant.

CIVIL ACTION NO. 10-10120-RGS

**TWIN CITY FIRE INSURANCE COMPANY'S
RESPONSE RE: MOTION FOR LEAVE TO FILE REPLY**

Defendant Twin City Fire Insurance Company ("Twin City") submits the following response to Radianse, Inc.'s Opposition to Twin City's Motion for Leave to File Reply:

Twin City's Reply in Support of its Motion for Summary Judgment seeks to respond to new arguments, inaccurate quotations, a new affidavit, and mischaracterizations of Twin City's arguments contained in Radianse's Reply Memorandum filed on September 24, 2010 (ECF 34)¹, and in Radianse's Opposition (ECF 27). Twin City submits that its Reply Memorandum will materially assist the Court in deciding the parties' cross motions for Summary Judgment by narrowing the issues to those few that are dispositive of whether or not there is coverage for the claim tendered, and whether the denial of coverage was in bad faith.

The Federal Rules of Civil Procedure do not prohibit the filing of Radianse's Reply Memorandum, regardless of whether it is characterized as a "reply to a reply," or whether it references inaccuracies that are contained in Radianse's earlier Opposition. Rather, as set forth in the Local Rules, this Court has the discretion to allow the filing of all "other papers," "whether

¹ Twin City did not have the opportunity to oppose Radianse's Motion for Leave, as the Motion was granted only 20 minutes after it was filed.

in the form of a reply brief or otherwise.” *See* Local Rule 7.1(B)(3). Twin City asks the Court to exercise its discretion and allow the motion so that it has before it the complete argument of both parties.

Dated: October 5, 2010

Respectfully submitted,

TWIN CITY FIRE INSURANCE COMPANY

By its attorneys,

/s/ Craig E. Stewart

Craig E. Stewart (BBO # 480440)

Jonathan Toren (BBO # 674779)

Edwards Angell Palmer & Dodge, LLP

111 Huntington Avenue

Boston, MA 02199-7613

Tel.: (617) 239-0764

Fax: (617) 227-4420

CERTIFICATE OF SERVICE

I, Jonathan Toren, hereby certify that a true and accurate copy of the foregoing document has been filed and served through the Court’s electronic filing system this 5th day of October, 2010.

/s/ Jonathan Toren